

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Judiciary Committee

BILL: SB 288

INTRODUCER: Senator Bullard

SUBJECT: Sale of Dogs and Cats

DATE: April 14, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Leal	Poole	AG	Favorable
2.	Sumner	Maclure	JU	Pre-meeting
3.			GA	
4.				
5.				
6.				

I. Summary:

This bill requires that pet dealers provide written notice to consumers recommending a scientific screening test for their dog or cat to help identify a number of genetic disorders and amends the definition of a “pet dealer” under section 828.29, Florida Statutes. Additionally, this bill requires the Department of Agriculture and Consumer Services (department) to enforce statutory provisions related to the sale of dogs and cats.

This bill authorizes the department to request that the state attorney in any circuit or county institute a suit in order to enforce the rules of the department or s. 828.29, F.S. It also requires the department to adopt rules to administer this section and sets a maximum administrative fine of \$10,000 for violation of this section or any rule of the department adopted under this section. The bill repeals the criminal offense provision in this section, authorizes the department to create one full-time position, and provides \$82,669 in funding for the purpose of carrying out this act.

This bill substantially amends section 828.29, Florida Statutes.

II. Present Situation:

The United States Department of Agriculture (USDA) has a licensing program for wholesale pet dealers. However, retail shops that sell pets directly to the public generally remain outside the jurisdiction of the USDA’s licensing authority.

In Florida, s. 828.29, F.S., governs the transportation into the state, and the offering for sale, of dogs and cats. Among other requirements, that statute prescribes vaccines and anthelmintics that

each dog and cat transported into the state must receive.¹ Further, each dog and cat to which the section applies must be accompanied by a current official certificate of veterinary inspection at all times when being offered for sale within this state.² Subsections (5) through (12) of this statute also impose requirements and duties upon “pet dealers” and prescribe the rights of consumers with respect to a pet dealer. A pet dealer is defined as any person, firm, partnership, corporation, or other association which, in the ordinary course of business, engages in the sale of more than two litters, or 20 dogs or cats, per year, whichever is greater, to the public, including breeders who sell animals directly to the public.³

A state attorney may bring an action to enjoin any violator of s. 828.29, F.S., from being a pet dealer. In addition, a person who violates the statute commits a misdemeanor of the first degree.⁴

Any agent of the Department of Agriculture and Consumer Services (department), any agent of the USDA, any law enforcement officer, any county agent, or any agent of a society or association for the prevention of cruelty to children or animals has authority to inspect all dogs and cats transported into or offered for sale in the state, along with copies of the certificate of inspection held by the sellers and veterinarians of the respective dogs and cats.⁵ The department reports that it does not currently have explicit statutory authority to enforce the provisions of s. 828.29, F.S., nor can it require the state attorney in any circuit or county to initiate suits to enforce or implement the provisions of ch. 828, F.S., and the rules of the department under this section, in an effort to prevent violations.

Chapter 570, F.S., governs the duties and powers of the Department of Agriculture and Consumer Services. Under s. 570.07, F.S., the department is responsible for performing all regulatory and inspection services relating to agriculture, with some specified exceptions. The department also is empowered to “make investigations, conduct hearings, and make recommendations concerning all matters relating to the powers, duties, and functions of the department as provided by law.”⁶

III. Effect of Proposed Changes:

This bill requires any pet dealer who sells a pet to a consumer to provide, at the time of the sale, written notice that contains the following provision:

Dogs and cats are susceptible to more than 300 genetic disorders. Certain breeds may be predisposed to certain health problems. Therefore, it is recommended you get a scientific screening test for your dog or cat to help identify a number of genetic diseases.

¹ Section 828.29(1) and (2), F.S.

² Section 828.29(3), F.S.

³ Section 828.29(13), F.S.

⁴ Section 828.29(14) and (17), F.S.

⁵ Section 828.29(3)(d), F.S.

⁶ Section 570.07(3), F.S.

Also, this bill redefines “pet dealer” as any person, firm, partnership, corporation, or other association that, in the ordinary course of business, engages in the sale of 20 or more dogs or cats per year to the public.

This bill directs the department to enforce the provisions of s. 828.29, F.S., as provided in ch. 570, F.S. In addition, this bill authorizes the department to request that the state attorney in any circuit or county institute a suit in order to enforce s. 828.29, F.S., or any rules adopted by the department pursuant to this section. Moreover, the department is required to adopt rules to administer this section.

Under this bill, violators of s. 828.29, F.S., would no longer be subject to criminal action but would instead be subject to administrative action by the department. Any person who violates s. 828.29, F.S., or any rules of the department would be subject to an administrative fine of up to \$10,000 for each offense. In addition, the department could seek enforcement pursuant to s. 120.69, F.S., for a second or subsequent violation. This bill repeals the criminal offense provision in s. 828.29, F.S., which declares that a person who violates a provision of this section commits a misdemeanor of the first degree.

Additionally, the bill authorizes the department to add one full-time equivalent position, and appropriates \$82,669 from the General Revenue Fund to the department for fiscal year 2009-2010.

This bill provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The impact on the private sector would be increased penalties for violations of s. 828.29, F.S., with fines of up to \$10,000. Upon a repeated violation, the department may seek enforcement pursuant to s. 120.69, F.S.

C. Government Sector Impact:

This bill creates a new position within the department and \$82,669 is appropriated from the General Revenue Fund for 2009-2010 fiscal year, for the purposes of carrying out this act. The fiscal impact to the government for the creation of the position is reflected in the following table.

	(FY 09-10) Amount	(FY 10-11) Amount
Recurring Expenditures	\$57,932	\$57,932
Non-Recurring Expenditures	\$24,737	\$0.00
Total	\$82,669	\$57,932

This bill de-criminalizes offenses under s. 828.29, F.S., and makes the department responsible for enforcement. The department reports that in order for it to be responsible for enforcement, it would require additional administrative staff, legal staff, and field investigative staff that would exceed the appropriations mentioned. For the department to carry out its role under this bill, it is estimated that an additional 13 FTE positions would be needed at an estimated cost of \$800,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
